

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADVANCE MAGAZINE PUBLISHERS INC.
d/b/a THE CONDE NAST PUBLICATIONS,

Plaintiff,

- against -

ACTIV8NOW, LLC and ACTIV8MEDIA, LLC,

Defendants,

- against -

ADVANCE PUBLICATIONS, INC.
and RICHFX, INC.,

Third-Party Defendants.
-----x

DOUGLAS F. EATON, United States Magistrate Judge.

At the end of my Memorandum and Order dated May 1, 2007, I wrote:

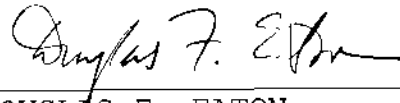
Exhs. 21 and 22 suggest that the parties may soon present me with a joint letter concerning allegations by Conde Nast that Activ8's document production was inadequate. Nevertheless, I find that we have sufficiently reached the close of fact discovery so that the parties must now comply with ¶12 of the Case Management Plan:

12. All counsel must meet for at least one (1) hour to discuss settlement not later than two (2) weeks following the close of fact discovery.

However, I had overlooked ¶10, which said that the *Markman* hearing would take place "mid-way through fact discovery." Moreover, all of the parties have now advised me that a settlement conference is more likely to be fruitful if it is held after Judge Karas has issued his *Markman* decision.

Accordingly, I will wait until then to hear from the parties about a settlement conference. In the meantime, if any party feels it necessary to present me with a joint letter, I will rule

on it, but I warn the parties that I am swamped with other cases at the present time.



DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181

Dated: New York, New York
May 22, 2007

Copies of this Memorandum and Order are being sent by electronic filing and also to:

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Dale Lischer, Esq. at 404-815-3509 fax
Hon. Kenneth M. Karas